

**SUMMARY REPORT OF INVESTIGATION**  
**Office of Inspector General Case # 15-0564 (Officer Daphne Sebastian)**  
**June 30, 2016**

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This report consists of a summary of the evidence set out in the attached investigative materials and the Office of Inspector General's (OIG's) analysis of that evidence. An index of the investigative materials is attached.

**I. INTRODUCTION**

An OIG investigation has established that Daphne Sebastian, a police officer for the Chicago Police Department (CPD) who was present when Officer Jason Van Dyke shot Laquan McDonald on October 20, 2014, violated CPD Rules and Regulations during the subsequent CPD and Independent Police Review Authority (IPRA) investigations.<sup>1</sup> Sebastian was assigned to Beat 813R on October 20, 2014; she and her partner, Officer Janet Mondragon, were in the vehicle which recorded the most complete footage of the shooting. As detailed further below, Sebastian made false statements and material omissions during her subsequent interviews with CPD and IPRA, which served to exaggerate the threat McDonald posed. In addition, OIG's investigation established that Sebastian failed to follow CPD Rules regarding the operation of CPD's in-car video systems. Accordingly, OIG recommends that CPD discharge Sebastian and refer her for placement on the ineligible for rehire list maintained by the Department of Human Resources.

**II. APPLICABLE RULES, REGULATIONS, AND LAW**

**A. CPD Rules and Regulations**

The "Rules and Regulations of the Chicago Police Department" set out the standards of conduct and duties of sworn members, as well as CPD goals. The Rules and Regulations state that sworn members must "conduct themselves at all times in such a manner as will reflect credit upon the Department with emphasis on personal integrity and professional devotion to law enforcement."

Article V of the CPD Rules and Regulations, entitled CPD Rules of Conduct (the CPD Rules), sets forth specifically prohibited acts. In pertinent part, the CPD Rules include the following prohibitions:

- Rule 2** Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.

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<sup>1</sup> CPD's investigation in the aftermath of the McDonald shooting was reported under record number HX-475653, and most reports were classified as an investigation into an aggravated assault in which McDonald was the offender. In a few reports, the case was classified as an investigation into a justifiable homicide of which McDonald was the victim. An additional record number was also created and classified as a justifiable homicide, apparently for recordkeeping purposes. In CPD's investigative reports classified under the aggravated assault, CPD personnel drew conclusions about the propriety and lawfulness of Van Dyke's shooting of McDonald. This raises questions about CPD's role in investigating a police-involved shooting in light of IPRA's jurisdiction over the matter.

- Rule 3** Any failure to promote the Department's efforts to implement its policy or accomplish its goals.
- Rule 6** Disobedience of an order or directive, whether written or oral.
- Rule 11** Incompetency or inefficiency in the performance of duty.
- Rule 14** Making a false report, written or oral.

**B. CPD Special Order S03-05 (effective February 23, 2012 through February 24, 2016)**

CPD Special Orders are directives that establish protocols and procedures concerning specific CPD functions, operations, programs, or processes. Special Order S03-05 outlines the protocols CPD members are to follow regarding in-car video systems.<sup>2</sup> Section VI of the Special Order provides that at the beginning of their tour of duty, Department members assigned to a CPD vehicle equipped with an in-car video system are to:

- (1) visually inspect the in-car video system equipment for damage;
- (2) obtain the remote transmitter/audio recorder and ensure it is securely attached to the member's person; and
- (3) follow the start-up procedures for the in-car video system as trained and ensure the system is working properly.

The Special Order notes that members are to "immediately notify a supervisor if, at any time, the in-car video system is inoperable, damaged, the equipped vehicle becomes inoperable, or the remote transmitter/audio recorder is missing." During their tour, members are to "audibly and visually record events in accordance with this directive." At the conclusion of a tour of duty, members are to "verify the in-car video system is working properly."

**III. OFFICER SEBASTIAN'S EMPLOYMENT HISTORY**

Sebastian has worked as a CPD Police Officer since September 30, 2002. She is a member of Fraternal Order of Police (FOP) Lodge 7.

**IV. SUMMARY OF INVESTIGATION**

**A. Procedural History of OIG's Investigation**

By letter, dated December 8, 2015, IPRA Acting Chief Administrator Sharon Fairley requested that OIG conduct an administrative investigation "to determine whether certain police

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<sup>2</sup> The in-car video systems are also referred to as dash cameras or dashcams.

officers/witnesses made false statements on official reports prepared in connection with [Van Dyke's shooting of McDonald] and/or during the investigation of the incident.”<sup>3</sup> IPRA further requested that OIG investigate “whether any of the involved Chicago Police officers committed any other violation(s) of Chicago Police Department rules, policies or procedures in their involvement with the incident, including, but not limited to, whether any officers’ conduct may have interfered with or obstructed the appropriate investigation and handling of this matter.”

Then, by letter, dated January 13, 2016, CPD Interim Superintendent John J. Escalante requested that OIG conduct an “administrative investigation into any and all allegations of police officer misconduct” arising out of the October 20, 2014 shooting death of McDonald. The Superintendent’s request asked OIG to investigate the following allegations: “whether any officer(s) made false statements on official reports submitted in connection with the shooting of Laquan McDonald on October 20, 2014; whether any officer(s) obstructed or interfered with the investigation of this incident, either individually or in collusion with others; and whether any officer(s) committed any violation of Chicago Police Department rules, policies, or orders in connection with their response and/or handling of this matter.” Escalante attached to the letter request a copy of Sergeant Sandra Soria’s Initiation Report, which raises allegations of misconduct related to the in-car video systems of the vehicles that were present during the McDonald shooting, and identified that Report as a basis for OIG’s administrative investigation.

On March 10, 2016, Kevin Kilmer, Financial Secretary for the FOP, on behalf of all affected members, filed a grievance with CPD stating that OIG’s attempts to conduct CPD officer interviews violated Article 6 of CPD’s Collective Bargaining Agreement (CBA) with the FOP.<sup>4</sup> On March 16, 2016, FOP on behalf of all impacted CPD officers filed a “Complaint for Injunction in Aid of Arbitration” in the Circuit Court of Cook County, asking the court to enjoin OIG from conducting interviews until the grievance was decided in arbitration.<sup>5</sup> The court dismissed the complaint and denied the injunction on March 22, 2016.

OIG’s administrative investigation of other CPD employees’ actions related to the McDonald shooting is ongoing. During the course of its investigation, OIG has gathered documents from CPD and IPRA, among other sources, and conducted numerous interviews, including interviews of thirteen CPD personnel who were at or responded to the scene of the shooting and seven civilian witnesses to the shooting. To date in its ongoing investigation, OIG has recommended

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<sup>3</sup> On November 24, 2015, the Cook County State’s Attorney charged Van Dyke with a single count of first degree murder in the shooting of McDonald. On December 15, 2015, it subsequently charged him with six counts of murder. OIG has not been involved with any criminal investigation related to the shooting and makes no findings regarding Van Dyke’s use of force.

<sup>4</sup> Section 6.1, Paragraph I of the CBA states, “If the allegation under investigation indicates a recommendation for separation is probable against the Officer, the Officer will be given the statutory administrative proceeding rights, or if the allegation indicates criminal prosecution is probable against the Officer, the Officer will be given the constitutional rights concerning self-incrimination prior to the commencement of interrogation.” CPD General Order GO8-01-01, Paragraph K contains similar language.

<sup>5</sup> *Fraternal Order of Police, Chicago Lodge 7 v. City of Chicago*, No. 2016 CH 03726 (Cir. Ct. of Cook County, Ill., Mar. 16, 2016).

disciplinary action against multiple CPD personnel, sustaining allegations that they each put forth a false narrative regarding the shooting.

## B. The Events of October 20, 2014

The following sections detail the shooting of McDonald, as well as the relevant events that occurred directly before and after the shooting.<sup>6</sup>

### 1. [REDACTED] and Rudy Barillas's Encounter with McDonald<sup>7</sup>

[REDACTED] and [REDACTED] Rudy Barillas, were parking a truck in a lot at 41st Street and Kildare Avenue when [REDACTED] saw a black male, whom she subsequently identified as McDonald, attempting to steal property from certain vehicles parked in the lot. Barillas told McDonald to leave the lot. McDonald responded by making growling noises. After Barillas again told McDonald to leave the lot, McDonald pulled out a knife and swung it at Barillas. Barillas, who had already called 911, then threw his cell phone at McDonald.<sup>8</sup> McDonald ran from the lot, first northbound on Kildare and then eastbound on 40th Street.

### 2. Officers Thomas Gaffney and Joseph McElligott's Encounter with McDonald<sup>9</sup>

Officer Thomas Gaffney and his partner Officer Joseph McElligott received a call over the radio that someone had broken into a truck at 4100 South Kildare and were dispatched to the scene.<sup>10</sup> Gaffney was driving, and McElligott was in the passenger seat of their assigned vehicle, 815R.<sup>11</sup>

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<sup>6</sup> On April 22, 2016, OIG obtained maps of the locations that are relevant to the shooting from Google Maps and included those maps in Appendix A. Those maps generally reflect the street layout and location of relevant businesses as they were on the night of October 20, 2014.

<sup>7</sup> The following account of [REDACTED] and Barillas's encounter with McDonald is taken from the March 16, 2015 case supplementary report (CSR) submitted by CPD Detective David March, which includes the statements that [REDACTED] and Barillas provided to CPD on October 21, 2014, and October 22, 2014, respectively. OIG 15-0564 003077.

<sup>8</sup> OEMC recordings reflect that Barillas called 911 at 9:45 p.m. stating that he was holding "a guy right hear [sic] that stolen [sic] the radios" from trucks in a truck yard located at "41st and Kildare." OIG 15-0564 003227.

<sup>9</sup> The following account of Gaffney and McElligott's encounter with McDonald is taken from (1) the audio-recorded statements Gaffney and McElligott provided to IPRA on October 21, 2014, OIG 15-0564 000482-98, 000610-30; and (2) the March 16, 2015, CSR submitted by Detective David March, which includes the statements that Gaffney and McElligott provided to March on the night of the McDonald shooting. OIG 15-0564 003067-69.

<sup>10</sup> OEMC records reflect that Gaffney and McElligott received the call at 9:47 p.m. OIG 15-0564 003691.

<sup>11</sup> Below is a chart identifying the beat numbers and vehicle numbers of the CPD vehicles that were present when McDonald was shot, along with the names of the officers who were assigned to those vehicles. This SRI refers to the below-referenced vehicles by beat number, unless otherwise specified.

When they arrived at 4100 South Kildare, they saw a Hispanic male and female standing by the gate to the truck yard. The two said that a black male wearing a black shirt, later determined to be McDonald, had been trying to steal the radio out of a semi-truck, and had subsequently headed north toward 40th Street.

Gaffney and McElligott drove north on Kildare, turned right onto 40th Street, and saw McDonald walking east on the south side of 40th Street. McElligott exited the vehicle and commanded McDonald to stop and turn around. Gaffney stayed in the vehicle in case McDonald attempted to flee. McElligott ordered McDonald to take his hands out of his pockets. McDonald, who had been facing McElligott, turned and walked away with one hand still in his pocket. McDonald then turned again and took both of his hands out of his pockets. He had a knife in his right hand. McElligott drew his weapon and told McDonald to drop the knife. McDonald started walking east again, going from the sidewalk to the street and back. McElligott followed McDonald on foot, shining his flashlight on him, while Gaffney followed in 815R, parallel to McDonald.

As McDonald approached the intersection of 40th and Keeler, Gaffney reported to dispatch that McDonald was walking away with a knife in his hand.<sup>12</sup> Gaffney and McElligott continued to follow McDonald as he headed east, with McElligott giving McDonald orders to drop his knife and stop. McDonald kept turning around and giving the officers a “weird glaze[d] look.” Gaffney IPRA Tr. 11:20.<sup>13</sup>

As McDonald approached the intersection of 40th and Karlov, Gaffney turned his car toward McDonald to direct him down Karlov. Gaffney wanted to keep McDonald away from Pulaski, which was a more populated area. McDonald then swung his arm and popped 815R’s right front tire with his knife. McElligott was toward the back of 815R when McDonald popped its tire. After McDonald took a step back from the vehicle, Gaffney pulled up further in front of him to stop him from proceeding to Pulaski. McDonald then hit the right side of 815R’s windshield once with the knife in his right hand. The windshield did not break but, according to Gaffney, McDonald hit it as hard as he could. McDonald walked around the front of 815R and continued

Beat #	Vehicle #	Officers
845R	6412	Officer Joseph Walsh (driver), Officer Van Dyke (passenger)
815R	8489	Officer Gaffney (driver), Officer McElligott (passenger and on foot)
813R	8779	Officer Mondragon (driver), Officer Sebastian (passenger)
822R	8765	Officer Arturo Becerra (driver), Officer Leticia Velez (passenger)
841R	8948	Officer Ricardo Viramontes (driver), Officer Dora Fontaine (passenger)

<sup>12</sup> OEMC recordings reflect that, at 9:53 p.m., 815R reported: “We’re at 40th and Keeler. This guy uh is walking away from us and he’s got a knife in his hand.” Approximately 30 seconds later, a dispatcher stated, “815R looking for a taser.” See OEMC Documents and CDs; see also OIG 15-0564 003691, 3228.

<sup>13</sup> OIG 15-0564 000620.

eastward on 40th Street. After McDonald had walked 10 to 15 feet, another squad car turned off of Pulaski onto 40th Street with its lights on, and McDonald began to sprint. McElligott followed McDonald on foot, and Gaffney followed McDonald in 815R. McDonald ran eastbound through a parking lot of a Burger King located at 40th and Pulaski and then headed southbound on Pulaski. Video footage from several cameras captured McDonald's movements as he reached Pulaski.

### 3. Summary of the Relevant Video Footage

The below table contains a summary of the relevant video footage of the McDonald shooting, which includes the dashcam videos from 813R (the vehicle in which Sebastian was the passenger), 823R, and 845R, video from the “WNE fire exit” security camera from the Greater Chicago Food Depository, which is bordered by 40th Street to the north, Karlov Avenue to the east, and Keeler Avenue to the west, and the security camera video from the Dunkin’ Donuts, located at 4113 South Pulaski Road (the DD Camera).<sup>14</sup>

Time	Event(s) Captured	Source of Video
9:53:17 – 9:54:42	McDonald walks eastbound on the south side sidewalk of 40th Street; a CPD SUV travels east on 40th Street, parallel to McDonald with its front bumper even with McDonald; an officer on foot trails directly behind McDonald by the length of the SUV, with his flashlight trained on McDonald. <sup>15</sup>	Greater Chicago Food Depository Security Camera
9:56:53 – 9:57:01	813R and 845R turn left onto 40th Street from Pulaski.	813R Dashcam
9:57:01 – 9:57:09	An unidentified person on 40th Street points the CPD vehicles toward the Burger King parking lot (813R); 845R turns into the parking lot (813R). McDonald runs southeast through the Burger King parking lot out onto Pulaski (845R).	813R Dashcam; 845R Dashcam
9:57:09 – 9:57:20	845R drives over the curb and sidewalk north of Burger King and heads south on Pulaski (845R); 813R turns around, turns right onto 40th Street, and then right again	813R Dashcam; 845R Dashcam

<sup>14</sup> In addition to the videos cited in the summary, OIG obtained video footage from the security camera videos at Burger King and Focal Point, and the dash camera videos from Vehicles 815R and 821R. These videos did not contain footage relevant to this report.

<sup>15</sup> OIG confirmed the vehicle is 815R and the officer on foot is McElligott by comparing the video with photographs of the officers. OIG 15-0564 003356.

	on Pulaski (813R); McDonald runs southbound in the middle of Pulaski and enters the intersection of 41st Street and Pulaski (813R).	
9:57:20 – 9:57:25	845R, which is facing east/southeast on Pulaski just north of 41st street, turns right behind McDonald and proceeds south on Pulaski on the east side of the street; 845R's passenger door briefly opens and then closes as it passes McDonald on his left; McDonald continues southbound on Pulaski, toward 822R, which is stopped in the middle of Pulaski facing north.	813R Dashcam
9:57:25 – 9:57:28	McDonald slows as he approaches 822R, touches his hands to his waist, and then, before Walsh and Van Dyke exit 845R, extends his right arm fully to his right—the video shows that he has a silver object in his right hand; 845R passes 822R and comes to a stop on the east side of Pulaski, facing south and almost directly south of 822R; Van Dyke opens 845R's passenger door.	813R Dashcam
9:57:28 – 9:57:30	McDonald changes course and begins walking southwest on Pulaski, away from 822R and 845R (813R); Van Dyke exits the passenger side of 845R with both of his feet in Pulaski's northbound left turn lane, his gun drawn and pointed at McDonald (813R). Walsh exits the driver side of 845R, just east of Pulaski's northbound left turn lane, with his gun drawn, and moves north along the driver side of 845R until he is several feet north of 845R (DD Camera).	813R Dashcam; DD Camera <sup>16</sup>
9:57:30 – 9:57:33	McDonald continues to walk southwest, from the middle of Pulaski to the lane markers that divide the west side of the road (or approximately one lane west of where McDonald was prior to changing course) (813R). While McDonald walks southwest, Walsh begins moving sideways in a west/southwest direction, approximately parallel to McDonald, and crosses over the east side of Pulaski's northbound left-turn lane—his gun is pointed at McDonald (813R; DD Camera). Van Dyke takes approximately two steps northwest toward McDonald,	813R Dashcam; DD Camera

<sup>16</sup> The DD Camera video does not display an embedded timestamp. Therefore, OIG used the timestamp of 813R's video, which generally captured the same events as the DD Camera from a different angle, to establish the timeframe of the events captured by the DD Camera.

	with his left foot crossing into Pulaski's yellow-painted median strip—his gun is pointed at McDonald (813R; DD Camera). 822R drives north on Pulaski, away from 845R (813R).	
9:57:33 – 9:57:36	As McDonald approaches the lane markers on the west side of Pulaski, walking in a southwest direction, he looks to his right and moves his right hand behind his waist, near the right side of his lower back, then brings his hand back to his right side (813R). As McDonald crosses the lane markers on the west side of Pulaski, he looks to his left, and takes a step southbound (813R). Meanwhile, Walsh continues moving west/southwest with his gun pointed at McDonald, ultimately traversing almost the entire width of Pulaski's northbound left-turn lane (813R; DD Camera). Van Dyke takes an additional step west, toward McDonald, putting both of his feet in Pulaski's median strip and placing himself almost directly between McDonald and Walsh (813R; DD Camera). McDonald is then apparently shot and Walsh stops moving and adopts a stance, with his feet more than a shoulder's width apart (813R; DD Camera).	813R Dashcam; DD Camera
9:57:36 – 9:57:54	McDonald spins between 180 and 270 degrees in a clockwise direction and then falls to the ground with the top of his head pointing south on Pulaski, approximately one street lane east of Van Dyke and just south of Van Dyke (813R). As McDonald falls to the ground, Van Dyke takes another step west toward McDonald, moving his right foot from Pulaski's median strip into the south-bound side of Pulaski; his gun remains pointed at McDonald (813R). Van Dyke subsequently takes an additional step or two south, toward McDonald. Other than those steps, Van Dyke's feet are stationary (DD Camera). After McDonald is on the ground, his legs and feet do not move (813R). McDonald's upper body makes small, intermittent movements as what appear to be puffs of smoke rise from McDonald's body (813R). <sup>17</sup>	813R Dashcam; DD Camera
9:57:54 – 9:58:05	An officer approaches McDonald and kicks the knife from his hand. McDonald does not make any noticeable	813R Dashcam

<sup>17</sup> OEMC records show that dispatch received notice to send an ambulance to the scene at 9:57:51. OIG 15-0564 003691.

	movements.	
9:58:05- 9:58:20	McDonald lies on the ground; no aid is rendered by CPD personnel. 823R, travelling northbound, pulls up on the west side of Pulaski, and stops just south of where McDonald is lying.	813R Dashcam; 823R Dashcam
9:58:20- 9:58:57	Several CPD officers walk and stand near McDonald as he lies on the ground; no aid is rendered by CPD personnel.	813R Dashcam; <sup>18</sup> 823R Dashcam
9:58:57- 9:59:02	823R begins making a U-turn on Pulaski. A Cook County Sheriff's Police Department (CCSPD) officer puts on blue gloves and walks toward McDonald. <sup>19</sup> McDonald is no longer visible in the video frame.	823R Dashcam

#### 4. CCSPD Officer Accounts of the October 20, 2014 McDonald Shooting<sup>20</sup>

While on patrol on October 20, 2014, CCSPD Officers Adam Murphy and Jeff Pasqua observed several CPD police vehicles pass by them. Both officers decided to follow the CPD vehicles. When they arrived at the scene, several CPD vehicles were already present—Pasqua estimated it was five or six. McDonald was lying on the pavement “gasping for his last breath of air.” Pasqua OIG Tr. 11:22-23. Meanwhile, the CPD officers were “standing around” and talking to each other. Murphy OIG Tr. 11:1. Murphy noted the CPD officers did not respond to him when he asked if they needed assistance. Murphy stated:

I see there’s blood all over the pavement. [McDonald] was kind of gurgling when he was sitting there. I remember his mouth was going open and closed like he was trying to gasp for air. And I looked for everybody else, and they were kind of standing there. I just started taking my gloves—my rubber gloves out to check for a pulse and to see if I could render aid.

Murphy OIG Tr. 12:18-13:2. He heard someone say an ambulance was en route. Both Officers Murphy and Pasqua recalled then watching McDonald take his final breaths.<sup>21</sup> It was “[m]aybe less than a minute before [McDonald] expired.” Murphy OIG Tr. 14:15-16. At no time did any

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<sup>18</sup> The last time stamp visible on the 813R dashcam video is 9:58:55.

<sup>19</sup> OIG identified the CCSPD officer as Officer Adam Murphy.

<sup>20</sup> The following CCSPD Officer accounts are taken from OIG’s June 23, 2016 interview of Jeff Pasqua and its June 24, 2015 interview of Adam Murphy. Pasqua and Murphy are currently CCSPD investigators.

<sup>21</sup> The Medical Examiner’s Case Report states McDonald was pronounced dead “on view” at Mount Sinai Medical Center on October 20, 2014, at 10:42 p.m. OIG 15-0564 015029.

CPD officers attempt to provide aid or comfort McDonald—Murphy stated, “That’s why I felt that I needed to go up to him.” Murphy OIG Tr. 14:11-12.

After McDonald passed away, Murphy got up from beside him and noticed the shooting officer, who he now knows to be Van Dyke, “pacing back and forth in front of his car.” Murphy OIG Tr. 15:7-8. Murphy approached him and told him to sit down and drink water. As he was speaking with Van Dyke, Murphy “heard several officers telling [Van Dyke] to ‘call your union rep, call your union rep.’” Murphy OIG Tr. 15:16-17.

Murphy and Pasqua departed after approximately ten minutes on the scene when a CPD sergeant told them CPD did not need their assistance. At the time they left, there was “[a] sea of CPD” on scene. Murphy OIG Tr. 38:3; Pasqua OIG Tr. 25:7-8.

### C. Officer Sebastian’s Statements Regarding the McDonald Shooting

#### 1. October 20, 2014 Statement to Detective David March<sup>22</sup>

On March 15, 2015, Detective David March submitted a case supplementary report (CSR) with the R.D. Number HX475653 that contains a summary of CPD’s investigation in the aftermath of the McDonald shooting. Lieutenant Anthony Wojcik approved the CSR on March 16, 2015. Included in that CSR is March’s summary of the statement he obtained from Sebastian at the scene of the shooting.<sup>23</sup> The CSR summarizes Sebastian’s October 20, 2014 statement in relevant part as follows:

[Sebastian] stated she was a Chicago Police Officer assigned to the 008th District. She was on duty, in uniform, working on Beat 813R. Sebastian was working with Police Officer Janet Mondragon. The two officers were assigned to a marked vehicle. Mondragon was driving the vehicle and Sebastian was the passenger.

The two officers responded to the request for assistance made by Beat 815R, regarding a subject with a knife. Officer Sebastian thought the original call for assistance was at 40th Street and Keeler Avenue. The subject had punctured a tire on the police vehicle of Beat 815R. Officer Mondragon drove northbound on Pulaski Road, following Beat 845R, as they also responded to the request for assistance. Mondragon turned westbound onto 40th Street, behind Beat 845R.

Officer Sebastian observed a black male subject, now known as Laquan McDonald, running southeast bound through the parking lot of the Burger King restaurant. Beat 845R pursued McDonald in their police vehicle, through the

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<sup>22</sup> OIG 15-0564 003069-70.

<sup>23</sup> March completed a General Progress Report (GPR) relating to his interview of Sebastian that contains March’s handwritten notes of the interview. OIG 15-0564 003248. March’s handwritten notes of the interview do not differ in any significant way from his summary of Sebastian’s statement in the CSR.

parking lot, toward Pulaski. Sebastian told Officer Mondragon to drive back out onto Pulaski to assist in the pursuit. McDonald ran out onto Pulaski and continued to run southbound down the middle of the street. Beat 845R pursued McDonald in their vehicle, southbound on Pulaski, followed by Beat 813R. As McDonald ran southbound on Pulaski, Sebastian saw the knife in his right hand. McDonald was waving the knife.

Beat 845R stopped their vehicle ahead of McDonald, between McDonald and the Dunkin' Donuts restaurant on the east side of Pulaski. Officers Joseph Walsh and Jason Van Dyke exited their vehicle and drew their handguns. McDonald turned toward the two officers and continued to wave the knife. Sebastian heard the officers repeatedly order McDonald to "Drop the knife!" McDonald ignored the verbal directions and continued to advance on the officers, waving the knife. Officer Sebastian heard multiple gunshots and McDonald fell to the ground, where he continued to move. Sebastian did not know who fired the shots, which were fired in one continuous group. She then saw Officer Walsh kick the knife out of McDonald's hand.

## 2. October 21, 2014 Statement to IPRA<sup>24</sup>

On October 21, 2014, at 5:07 a.m., IPRA investigator Brian Killen interviewed Sebastian at Area Central Police Headquarters, located at 5101 South Wentworth, regarding the McDonald shooting. Attorney Dan Herbert and FOP Field Representative Kriston Kato accompanied Sebastian. Prior to the interview, Killen informed Sebastian that "any intentional falsification of any question, any answer to any question would be in direct violation of Department rules and regulations," and that her "failure to provide a complete and accurate account of this incident could result in a finding of Rule 14 with uh discipline leading up to and including separation from the Chicago Police Department." Sebastian IPRA Tr. 3:20-30. Sebastian indicated that she understood the potential disciplinary consequences of making a false statement to IPRA and of providing a less than complete account of the shooting to IPRA. In summary, Sebastian stated as follows.

Sebastian started work at 9:00 p.m. on October 20, 2014. Mondragon was her partner that night. They were both in full uniform and were assigned vehicle 8779, a marked Ford Explorer. Sebastian was the passenger.

Sebastian and Mondragon were in the area of 55th Street and Kostner when they heard a radio dispatch saying that 815R was requesting assistance with an offender armed with a knife. Mondragon drove toward 815R and, in the meantime, Sebastian learned that the offender, now known as McDonald, was travelling eastbound toward a Burger King restaurant, and toward Pulaski, on foot with a knife in his hand. She then learned that McDonald punctured 815R's tire. At this point, Mondragon and Sebastian were travelling northbound on Pulaski, behind 845R. They turned westbound on 40th Street, just north of the Burger King parking lot. As they arrived, 845R went into the parking lot, and Sebastian heard over the radio that McDonald was

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<sup>24</sup> OIG 15-0564 000583-96.

running through the parking lot. Sebastian could see McDonald at some distance, and told Mondragon to drive out onto Pulaski in an effort to cut off the offender. As they reached 41st Street driving southbound on Pulaski, they saw McDonald running southbound in front of them in the middle of Pulaski. McDonald was in front of the car, running away from them.

When Sebastian and Mondragon were behind McDonald on Pulaski, Sebastian was able to see a knife in his hand. She stated: “[H]e [was] actually waving [the knife] back and forth. Like front to back. Moving his arm back and forth as he’s um maybe like a fast walk, slow run southbound on Pulaski.” Sebastian IPRA Tr. 8:12-15. When Sebastian and Mondragon reached 41st Street, Walsh and Van Dyke were already out of their car. Sebastian saw the offender “in the street still waving his, his arm with the knife.” Sebastian IPRA Tr. 8:30-31. When asked later in her interview whether she saw the offender wave the knife at someone, Sebastian answered: “He was (noise) waving it (noise) before he got towards 845 Robert he was just swinging his arm back and forth. I mean he’s doing all kinds of like twisting body motions as he’s walking. (noise) Um when he got closer to them and they got outta the vehicle, it (noise) he turned his body towards them like the knife like (noise) in a motion towards them. His, (noise) his right arm did. (noise).” Sebastian IPRA Tr. 9:28-10:4.

Sebastian then heard several shots fired and saw McDonald fall to the ground. She did not know who was shooting, and explained that she saw both Van Dyke and Walsh with their guns drawn, but her attention was directed at the offender when shots were fired. 813R was “still in motion . . . still moving” when the shooting occurred. Sebastian IPRA Tr. 9:12-16. Sebastian said she heard the gunshots, but did not know how many she heard. After she heard the gunshots, she and Mondragon exited their vehicle and, as they did so, Sebastian saw that the offender was “no longer a threat.” Sebastian IPRA Tr. 12:3-4. She explained: “I didn’t see that there was any more movement. Um Officer Walsh, I saw Officer Walsh (noise) um kick the knife, the, he still had the knife in his hand. (noise) You could see that. And he kicked it away from ‘em and it was no more, I didn’t see any movement from the offender.” Sebastian IPRA Tr. 12:16-22.

When asked by IPRA whether everything she stated was “a true and accurate account of what occurred,” Sebastian said, “Yes.” Sebastian IPRA Tr. 13:14-16.

#### **G. Records and Interview Concerning 813R’s In-Car Video System**

On October 21, 2014, CPD Sergeant Lance Becvar submitted a supplementary report for R.D. Number HX475653 concerning his retrieval of video from the in-car video systems of the five CPD vehicles that were on scene when Van Dyke shot McDonald.<sup>25</sup> With respect to 813R, the vehicle in which Sebastian was the passenger on October 20, 2014, Becvar noted, “video recovered.” Becvar also completed an “In Car Camera Video Retrieval Worksheet” regarding his October 20, 2014 video retrieval, in which he made the following notation with respect to 813R: “Mics in glove box batteries inserted upside down → fully op.”<sup>26</sup>

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<sup>25</sup> OIG 15-0564 004991.

<sup>26</sup> OIG 15-0564 004992.

On July 17, 2015, Becvar sent an email summarizing his findings regarding his October 20, 2014 video retrieval from 845R and the other four CPD vehicles that were on scene when Van Dyke shot McDonald.<sup>27</sup> With respect to 813R, Becvar stated as follows: “Video recovered titled PC0Z400@20141020215250, No mics because they were in the glove compartment with the batteries inserted upside down – Disabling them.”

In a January 27, 2016 OIG interview with Becvar, he stated that, while video had been recovered from 813R’s system, there was no audio recording because the system’s microphones “were in the glove compartment with the batteries turned upside down.” Becvar OIG Tr. 52:8-10. When asked what he had made of the fact that the batteries had been put in upside down, Becvar answered, “It’s a known way to get around the video – get around the microphones.” Becvar OIG Tr. 52:18-19. He went on to explain that, if batteries had been put in upside down accidentally, an officer should have been able to ascertain that from the operation of the system.

## H. OIG’s Interview of Officer Sebastian

On February 24, 2016, pursuant to Section 6.1 of the CBA between CPD and FOP, OIG, through CPD’s Bureau of Internal Affairs, served Sebastian with a Notification of Interview, Notification of Allegations, and copies of her prior statements, including: (1) her October 20, 2014 statement to March, contained in the March 16, 2015 CSR; (2) March’s GPR containing his handwritten notes of his interview of Sebastian; and (3) Sebastian’s October 21, 2014 statement to IPRA. In addition, OIG provided Sebastian with the dashcam footage from 813R and 845R and the security camera footage from Dunkin’ Donuts.

On March 21, 2016, OIG investigators interviewed Sebastian under oath after informing her of her administrative advisements orally and in writing. She provided oral and written acknowledgment of the reading of those advisements. The interview was transcribed by a certified court reporter. Sebastian’s attorney, Jennifer Russell, was also present for the interview. In summary, Sebastian stated as follows.

As of October 20, 2014, Sebastian was assigned to CPD’s 8th District and was working the first watch on Beat 813R. She was working with Mondragon, one of her regular partners.

### 1. The Scene of the Shooting

Sebastian and Mondragon were at the scene of the McDonald shooting. Immediately after McDonald was shot, they exited their vehicle and began directing traffic away from the scene. At some point at the scene of the shooting, Sebastian spoke with Sergeant Franko and Detective March.<sup>28</sup> She spoke with March while standing outside of 813R, and March took notes during their conversation. Sebastian did not recall if Mondragon was present when she spoke with March. She did not view any video while at the scene.

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<sup>27</sup> OIG 15-0564 000567.

<sup>28</sup> Sebastian did not know March’s name, but concluded from reports of the incident that he was the detective with whom she spoke.

## 2. Area Central

At some point, a supervisor at the scene of the shooting directed Sebastian to go to Area Central. Mondragon, Fontaine, Viramontes, McElligott, Gaffney, and Walsh were also present at Area Central. Sebastian heard that Van Dyke was also there, but did not see him. The officers did not discuss the McDonald shooting among themselves. Sebastian did not speak to March, or any other detective, at Area Central. Kris Kato, an FOP representative, was at Area Central and spoke to the officers as a group; they did not discuss anything substantive about the shooting. Someone showed Sebastian and others the Dunkin' Donuts surveillance video at Area Central. Sebastian did not believe she viewed the dashcam video from her vehicle, 813R. Sebastian and Mondragon left Area Central after their IPRA interview.

## 3. Sebastian's Statement to Detective March

Sebastian reviewed the statements attributed to her in the March 16, 2015 CSR and provided the following responses.

Statement from CSR	Response When Asked to Review
“[Sebastian and Mondragon] responded to the request for assistance made by beat 815R regarding a subject with a knife.”	Sebastian affirmed that she made this statement to March and that it was accurate.
“Officer Sebastian thought the original call for assistance was at 40th Street and Keeler Avenue.”	Sebastian affirmed that she made this statement to March. When asked if the statement was accurate, she said: “I’m not sure of the accuracy. That’s why I said I thought that that’s where it was. I’m not sure that it was 40th and Keeler, but to the best of my knowledge at the time I was interviewed, that’s where I thought the original call was at.” Sebastian OIG Tr. 108:6-10.
“The subject had punctured a tire on the police vehicle 815R. Officer Mondragon drove northbound on Pulaski Road following beat 845R as they also responded to the request for assistance. Mondragon turned westbound onto 40th Street behind 845R. Officer Sebastian	Sebastian affirmed that she made these statements to March and that they were accurate.

<p>observed a black male subject now known as Laquan McDonald running southeast bound through the parking lot of the Burger King restaurant. Beat 845R pursued McDonald in the police vehicle through the parking lot toward Pulaski. Sebastian told Officer Mondragon to drive back out onto Pulaski to assist in the pursuit. McDonald ran out onto Pulaski and continued to run southbound down the middle of the street.”</p>	
<p>“Beat 845R pursued McDonald in their vehicle southbound on Pulaski followed by beat [813R].”</p>	<p>Sebastian did not remember making this statement, and was not sure that it was accurate. She explained that “the way it’s written makes it sound like we were behind 845 Robert once we got onto Pulaski, and that’s inaccurate. . . What would be accurate was that we were southbound on Pulaski in the southbound lanes and that 845R was southbound on Pulaski somewhat in the northbound lanes.” Sebastian OIG Tr. 111:5-14.</p>
<p>“As McDonald ran southbound on Pulaski, Sebastian saw the knife in his right hand. McDonald was waving the knife. Beat 845R stopped their vehicle ahead of McDonald[,] [b]etween McDonald and the Dunkin’ Donuts restaurant on the east side of Pulaski. Officers Joseph Walsh and Jason Van Dyke exited their vehicle and drew their handguns.”</p>	<p>Sebastian affirmed that she made these statements to March and that they were accurate.</p> <p>Later in her interview, Sebastian said that she glanced at Van Dyke and Walsh and saw them exit their vehicle with their guns drawn. After that moment, she was “watching Laquan McDonald.” Sebastian OIG Tr. 143:8.</p>
<p>“McDonald turned toward the two officers and continued to wave the knife. Sebastian heard the officers repeatedly order McDonald to “Drop the knife!”</p>	<p>Sebastian described these statements as “not inaccurate,” but believes they are out of chronological order. She was asked whether it was more accurate to say that “as Officers Walsh and Van Dyke were exiting their vehicle and drew their handguns, they</p>

McDonald ignored the verbal directions and continued to advance on the officers, waving the knife."	<p>were continuously telling McDonald to drop the knife," and she answered, "Correct." Sebastian OIG Tr. 114:7-11. Asked whether, at that point, "McDonald continued to advance and then turned toward the officers, continuing to wave the knife," she answered, "He continued to walk southbound. . . [h]e continued to walk." Sebastian OIG Tr. 114:12-17. She did not recall the exact verbiage she used during her interview with March.</p> <p>Later in her interview, Sebastian said she could hear the order to "Drop the knife!" because her window was slightly open and Officer Walsh has a "very loud commanding voice." Sebastian OIG Tr. 128:13.</p>
"Officer Sebastian heard multiple gunshots, and McDonald fell to the ground where he continued to move."	Sebastian affirmed that she made this statement to March and that it was accurate. Sebastian OIG Tr. 115:7-9.
"Sebastian did not know who fired the shots which were fired in one continuous group."	Sebastian affirmed that she made this statement to March and that it was accurate. Sebastian OIG Tr. 115:14-16. She later explained that she did not know which officer fired the shots because both Officers Van Dyke and Walsh had their guns drawn, and her attention was focused on McDonald for all 16 shots.
"She then saw Officer Walsh kick the knife out of McDonald's hand."	Sebastian affirmed that she made this statement to March and that it was accurate. Sebastian OIG Tr. 115:20-22.

Sebastian reviewed the allegations against her as set out in the Notification of Allegations served upon her by OIG, as relating to her statement to March. She responded, in relevant part, to the allegations as follows.

Allegation	Response
"It is alleged that on or about October 20, 2014, you made a false statement during the interview with Detective March when you stated that McDonald	Of this statement, Sebastian said, "I stand by it, but it's out of chronological order." Sebastian OIG Tr. 118:4-5. She continued, "He did turn towards them and in a motion with the knife." Sebastian OIG Tr. 118:10-11.

turned toward officers Walsh and Van Dyke and continued to wave the knife.”	
“It is alleged that on or about October 20, 2014, you made a false statement during an interview with Detective March when you stated that McDonald ignored Officers Walsh and Van Dyke’s verbal directions to drop the knife and continued to advance on the officers waving the knife.”	Referring to her earlier comments on the proper chronological order of events, Sebastian said: “I stand by this, but I will also stand by my clarification as I stated before. He continued to walk southbound. He continued to.” Sebastian OIG Tr. 118:21-23.
“It is alleged that on or about October 20, 2014, you made a material omission during an interview with Detective March when you failed to state that McDonald changed the direction in which he was walking prior to the shooting.”	Sebastian responded that McDonald “was walking in a southerly direction the entire time was what I saw. He didn’t turn and go back north. He didn’t turn and go directly east or directly west; his motion was in a southerly direction from what I saw that night.” Sebastian OIG Tr. 119:13-17.
“It is alleged that on or about October 20, 2014, you made a false statement during an interview with Detective March when you stated that McDonald continued to move after he fell to the ground.”	When asked if she stood by her statement to Detective March, including her clarifications, Sebastian answered, “Yes.” Sebastian OIG Tr. 120:15.
“It is alleged that . . . [o]n or about October 20, 2014 you provided a false narrative to Detective David March of the Chicago Police Department concerning the McDonald shooting through a series of false statements and material omissions.”	When asked if she stood by her statement to Detective March, including her clarifications, Sebastian answered, “Yes.” Sebastian OIG Tr. 124:13.

#### 4. Sebastian's October 21, 2014 IPRA Interview

Sebastian said she did not speak with anyone in preparation for her October 21, 2014 IPRA interview at Area Central.

Sebastian reviewed the allegations against her as set out in the Notification of Allegations served upon her by OIG, as relating to her IPRA interview. She responded, in relevant part, to the allegations as follows.

Allegation	Response
“It is alleged that on or about October 21, 2014, you made a false statement during an interview with IPRA Investigator Killen when you stated that McDonald turned toward officers Walsh and Van Dyke with a knife in a motion towards them.”	Sebastian stood by her statement to IPRA. When asked to clarify what she meant, she answered, “As [McDonald] walked closer to Officers Van Dyke and Walsh, at one point he did a twisting, he turned towards them with the arm, his right arm, which was what he was holding the knife with in a twisting motion turning towards them.” Sebastian OIG Tr. 140:16-20.
“It is alleged that on October 21, 2014, you made a material omission during an interview with IPRA Investigator Killen when you failed to state that McDonald changed the direction in which he was walking prior to the shooting.”	When asked why she did not tell IPRA that McDonald changed the direction in which he was walking prior to being shot, Sebastian answered, “I didn’t see him change direction northbound, directly westbound, or directly eastbound. He was still in a southerly direction.” Sebastian OIG Tr. 142:10-13.
“It is alleged that on or about October 21, 2014, you made a false statement when during an interview with IPRA Investigator Killen, Killen asked [if] everything you stated was a true and accurate account of what occurred, and you stated, “Yes, sir.””	Sebastian stood by her statement to IPRA.
“It is alleged that on or about October 21, 2014, you provided a false narrative to IPRA	Sebastian stood by her statement to IPRA.

Investigator Brian Killen concerning the McDonald shooting through a series of false statements and material omissions.”	
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### 5. Use of 813R’s In-Car Video System

Sebastian reviewed CPD Special Order S03-05 outlining the protocol for in-car video systems and said she “probably” had seen it “at some point.” Sebastian OIG Tr. 149:3. She later added that she had been trained on the materials in 2006. Since before October 20, 2014, and continuing until sometime after that date, Sebastian was unable to log into any in-car video system herself because of an error with her employee number. She notified supervisors of this problem twice. During the time that her login was not working, Sebastian would have her partner login. At some point after October 20, 2014, Sebastian’s login was enabled. Mondragon did have a working login for the in-car video system on October 20, 2014.

Sebastian did not remember whether, before October 20, 2014, she had ever had trouble with the in-car video system or with audio recording in vehicle 8779. When she and Mondragon began their shift on October 20, 2014, Mondragon logged into the system and Sebastian and Mondragon visually inspected the system equipment for damage. Sebastian did not obtain the remote transmitter audio recorder or ensure that it was securely attached to her person. When asked why she had not done this, she answered, “I don’t have an answer for that.” Sebastian OIG Tr. 158:17. When asked whether it was her regular practice to attach the audio recorder, she answered, “It is now,” but noted that, before October 20, 2014, “It was not.” Sebastian OIG Tr. 158:21-23.

Sebastian was shown Becvar’s notes having to do with vehicle 8779’s microphones being in the glove compartment, with their batteries inserted upside down. She did not know why the microphones were in the glove compartment, or why the batteries had been inserted upside down. When asked, “Did you purposefully disable the microphones?”, she answered, “No, I did not.” Sebastian OIG Tr. 163:3-5.

Sebastian was presented with the allegations against her as set out in the Notification of Allegations served upon her by OIG, as relating to her use of 813R’s in-car video system on October 20, 2014. She responded, in relevant part, to the allegations as follows.

Allegation	Response
“ <b>I</b> t is alleged that on or about October 20, 2014, you failed to ensure the in-car video system for CPD vehicle 8779 was	Sebastian said, “My response to that allegation is that it appeared that the in-car camera was working properly at the beginning of the tour; however, I did not ensure that the audio system was working

working properly at the beginning of your tour of duty.”	correctly. Sebastian OIG Tr. 166:20-24.
“It is alleged that on or about October 20, 2014, you failed to immediately notify a supervisor that the in-car video system for CPD vehicle 8779 was inoperable or damaged.”	Sebastian said, “My response to that is that that’s correct. I did not immediately notify a supervisor.” Sebastian OIG Tr. 167:6-7. She then added, “I did fail to immediately notify the supervisor; however, I did not check the microphones. So I didn’t know that they were inoperable, damaged. I didn’t check them.” Sebastian OIG Tr. 167:16-20.
“It is alleged that on or about October 20, 2014, you failed to audibly record events with CPD vehicle 8779’s in-car video system during your tour of duty.”	Sebastian said, “Again, I’ll repeat the fact that I didn’t inspect the microphones. I didn’t ensure that they were working. So I had no knowledge whether it would record it or not record it at the time of the incident.” Sebastian OIG Tr. 168:6-10.

## V. ANALYSIS

OIG’s investigation established that Sebastian made false statements and material omissions in her interviews with CPD and IPRA regarding the McDonald shooting. Sebastian’s false statements all served a similar purpose: to materially exaggerate the threat McDonald posed to Van Dyke and Walsh. Sebastian’s statements and omissions go to establishing a false narrative that Van Dyke shot an oncoming McDonald in response to McDonald’s potentially deadly knife attack. In her OIG interview, Sebastian was given the opportunity to correct, clarify, or explain her false statements, but she nonetheless stood by them.

Sebastian’s actions, individually and collectively, constitute violations of CPD Rules. Each of Sebastian’s false statements constitutes a violation of Rule 14 (making a false report, written or oral). Her false statements also constitute violations of Rule 2 (engaging in any action or conduct which impedes the Department’s efforts to achieve its policy and goals or brings discredit upon the Department), and Rule 3 (failing to promote the Department’s efforts to implement its policy and accomplish its goals). An officer who has made false statements in an official investigation has irrevocably tainted not only her credibility, but also the credibility of CPD—and also fails to promote CPD’s goal of employing officers with personal integrity and professional devotion to law enforcement. Sebastian further violated Rule 6 (disobedience of an order, namely S03-05) and Rule 11 (incompetency in the performance of a duty) by failing to audibly record events with her in-car video system and failing to notify her supervisor about the status of the system’s audio component. Accordingly, OIG recommends that CPD discharge Sebastian.

### A. Sebastian's False Narrative to Detective March

Sebastian made three false statements to Detective March on October 20, 2014, regarding the McDonald shooting that are clearly contradicted by the 813R and 845R dashcam video, the most objective and reliable evidence of the events that night. Most notably:

- Sebastian stated that McDonald turned toward officers Walsh and Van Dyke and continued to wave the knife.
- Sebastian stated that McDonald ignored Officers Walsh and Van Dyke's verbal directions to drop the knife and continued to advance on the officers while waving the knife.
- Sebastian stated that, after he had been shot, McDonald continued to move after falling to the ground.

First, the 813R dashcam video evidences that there was no time at which McDonald turned toward Walsh and Van Dyke while waving the knife. Rather, it shows only that McDonald extended his right arm fully to his right side *before* Walsh and Van Dyke were out of their car, and that, after the officers were out of their car, McDonald moved his right hand behind his waist, then back to his right side as he was walking away from them.<sup>29</sup> McDonald did not turn toward Walsh and Van Dyke while waving the knife. Sebastian's comments on the "chronological order" of the events as she related them do not change the substance of her false statement. In her OIG interview, Sebastian ratified her position that McDonald "did turn towards them and in a motion with the knife." Sebastian OIG Tr. 118:10-11. In light of the objective video evidence, this statement is false.

Second, Sebastian takes the materially false position that McDonald "advance[d] on" Walsh and Van Dyke. The video evidence clearly shows McDonald walking away from Walsh and Van Dyke, and the two officers moving toward McDonald.

Third, Sebastian's statement that McDonald "continued to move" after being shot and falling to the group is, at best, misleading. The video footage shows that, after McDonald fell to the ground, his lower body did not move at all. Small, intermittent movements are discernable in his upper body, as what appear to be puffs of smoke rise from his body. These minimal movements are not, however, any sort of continuation of movement from when McDonald was standing or walking. Sebastian's statement to March, as ratified in her OIG interview, serves to exaggerate the threat posed by McDonald by suggesting that he continued to pose a danger to Van Dyke and Walsh as he lay on the ground, already having been shot.

In addition, Sebastian omitted certain material information; specifically, that McDonald changed the direction in which he was walking and was in fact walking away from Van Dyke and Walsh before he was shot. The footage recorded by 813R's in-car video system, the very car in which

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<sup>29</sup> See summary of video footage, *supra*.

Sebastian was riding, shows precisely what was visible from her location at the scene; it clearly shows McDonald change his direction and begin to walk away from the officers. Sebastian claimed in her OIG interview that, as soon as she saw Van Dyke and Walsh exit their vehicle, she was wholly focused on McDonald. It is impossible, then, that she did not see McDonald's actions. In the context of her false statements, Sebastian's omission can be seen as a deliberate attempt to establish or further the false narrative that Van Dyke shot an onrushing McDonald in response to a potentially deadly knife attack. This narrative, and Sebastian's statements which further it, are contradicted by the video footage of the shooting.

### B. Sebastian's False Narrative to IPRA

Sebastian repeated her false narrative of the McDonald shooting to IPRA during her October 21, 2014 interview with Investigator Killen. Specifically, she again stated that McDonald turned toward officers Walsh and Van Dyke and moved the knife "in a motion towards them." Sebastian IPRA Tr. 10: 2-3. She again failed to state that McDonald was walking away from Van Dyke and Walsh prior to the shooting. As detailed above, however, Sebastian's statement is contradicted by the video evidence, and her omission is shown to be intentional. Nonetheless, she stood by her statement to IPRA and asserted that she had provided a true and accurate account of the shooting.

### C. Failure to Comply with Special Order S03-05

Sebastian also violated Rule 6 (disobedience of an order) and Rule 11 (incompetency in the performance of a duty) by failing to audibly record events with her in-car video system and failing to notify her supervisor about the audio component's status as required by S03-05. As Sebastian acknowledged, CPD did not recover any audio from 813R's in-car video system. Becvar, who recovered the video from 813R's in-car video system, found that the system's microphones were in the glove compartment with their batteries inserted upside down. If Sebastian had properly followed the pre-tour of duty in-car video system protocols, she would have identified all these issues. Yet, as Sebastian admitted, she never checked or reported on the status of 813R's audio component. Becvar's inspection revealed that, if the batteries were inserted correctly, 813R's audio recording component would have been fully functional.<sup>30</sup> Therefore, it was only Sebastian's failure to operate the system correctly that precluded audio recording. Thus, the evidence demonstrates that Sebastian failed to follow the in-car video system procedures set forth in S03-05 on October 20, 2014.

## VI. RECOMMENDATION

Sebastian's false statements and material omissions raise significant concerns regarding her credibility and ability to perform her duties as a sworn officer. As a sworn officer, Sebastian's reports are relied upon in criminal legal proceedings and her credibility is therefore critical to her position. An officer who has made false statements in an official investigation has irrevocably

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<sup>30</sup> Information supplied by Becvar suggests that, given that the microphones in 813R would have been fully functional if the batteries had been inserted correctly, they may have been intentionally disabled. Because different officers drive the same car, however, OIG is unable to establish who may have disabled them.

tainted her credibility and has wholly disqualified herself from effectively executing core police functions. Based on this conduct she may be the subject of cross-examination in any contested proceedings in which she may appear as a witness, *see FED. R. EVID. 608(b)* (“Specific instances of conduct”), and her conduct and the findings resulting from this investigation would further qualify as impeachment material that should, in principle, be disclosed in any contested proceeding involving the official records or testimony Sebastian generates. *See Giglio v. United States*, 405 U.S. 150 (1972) (requiring disclosure in criminal case of information impeaching of government witness’s credibility). Illinois courts have repeatedly noted that “as the guardians of our laws, police officers are expected to act with integrity, honesty, and trustworthiness” and have found intentional false or misleading statements by police officers to be sufficient cause for termination. *Rodriguez v. Weis*, 408 Ill. App. 3d 663, 671 (1st Dist. 2011) (quoting *Sindermann v. Civil Service Comm’n*, 275 Ill. App. 3d 917, 928 (2nd Dist. 1995)). Further, Sebastian failed, without any explanation, to comply with Special Order S03-05, and her actions resulted in the loss of what would have been critical, objective evidence of the events surrounding the McDonald shooting.

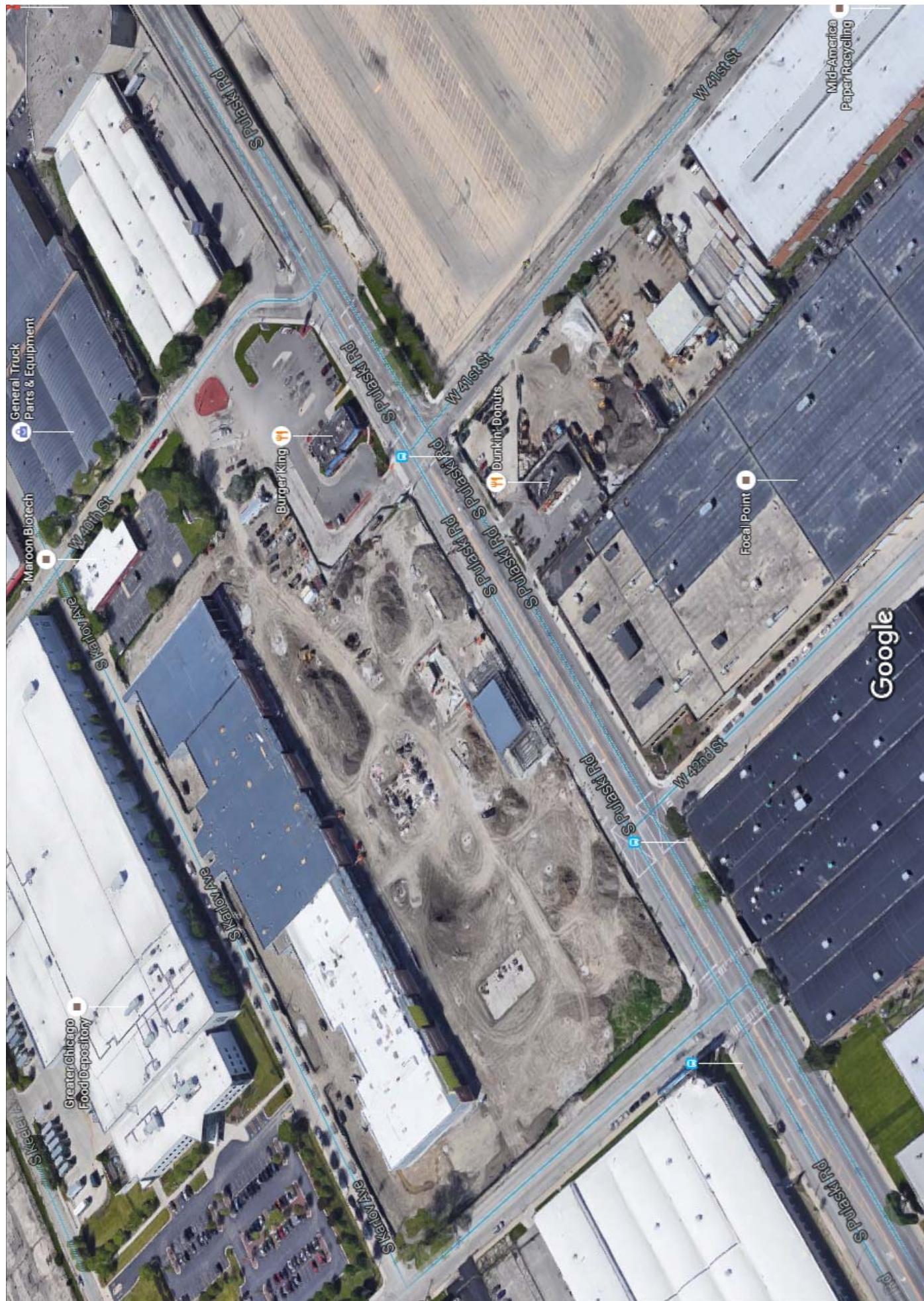
OIG therefore recommends that CPD discharge Sebastian and refer her for placement on the ineligible for rehire list maintained by the Department of Human Resources.

## VII. CPD RULE VIOLATIONS

- Rule 2** Any action or conduct which impedes the Department’s efforts to achieve its policy and goals or brings discredit upon the Department.
- Rule 3** Any failure to promote the Department’s efforts to implement its policy or accomplish its goals.
- Rule 6** Disobedience of an order or directive, whether written or oral.
- Rule 11** Incompetency or inefficiency in the performance of duty.
- Rule 14** Making a false report, written or oral.

# **Appendix A**





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